

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

*In re* Patent Application of:

Kevin Williams WEEKS

Serial No.: 10/030,408

Confirmation No.: 8967

Filed: January 3, 2002

For: **METHOD OF FORMING A TUBE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Docket No.: 2039384-5001US  
(Formerly "5095.001")

Group Art Unit: 3752

Examiner: BRINSON, Patrick F.

**RECEIVED**

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TECHNOLOGY CENTER R3700

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

Sir:

In response to the Restriction Requirement mailed September 4, 2003, Paper No. 10, Applicants respectfully request reconsideration of the Restriction Requirements in view of the following Remarks.

A Petition for a one-month (1)-month extension of time under 37 C.F.R. §1.136(a) is filed herewith extending the period for response through November 4, 2003. It is not believed that any further extensions of time are required other than those in the accompanying Petition. If further extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned for under 37 C.F.R. §1.136(a). Applicants believe that no further fees for net addition of claims are required at this time. Any fees required for further extensions of time and any fees for the net addition of claims are hereby authorized to be charged to our Deposit Account No. 23-1951.

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H.F.B.



**ELECTION**

In response to the Restriction Requirement dated September 4, 2003, Applicants Provisionally elect Group II, claims 6-10, drawn towards a tube, with traverse.

It is respectfully submitted that claims 1-10 have unity of invention and that these claims should be examined by the Examiner. The present invention is an application filed under 35 U.S.C. § 371 based on International Application No. PCT/AU00/00781. Unity of invention was found in International Application No. PCT/AU00/00781. Applicants, respectfully direct the Examiner to the International Preliminary Examination Report showing unity of invention for claims 1-10.

Also, in accordance with PCT Rule 13 and more specifically, PCT Rule 13.2 “the unity of invention shall be fulfilled when there is a technical relationship among those inventions involving one or more same or corresponding special technical features.” Additionally, 13.2 states the “expression ‘special technical feature’ shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.” As found in the International Application, unity of invention exists in this application, thus claims 1-10 should be examined.

Additionally, the Examiner has not provided sufficient evidence to establish a lack of unity of invention. Rather, it appears that the Examiner is applying a species rejection or trying to restrict claims drawn to a method from claims drawn to an apparatus. This is not proper. Applicants respectfully direct the Examiner to administrative instructions under the PCT, ANNEX B of the MPEP, disclosing numerous examples concerning unity of invention. In these examples, it is shown that method and apparatus claims may have unity of invention. These claims should be examined together if there is a special technical feature in common with all of

the claims, that is, if there is unity of invention among the claims. Claims 1-10 clearly fall within this category.

Moreover, Applicants respectfully assert that all of claims 1-10 include a special technical feature and do not lack unity of invention. This special technical feature may include, for example, a tube having tabs or other features in common to claims 1-10. The International Preliminary Examination Report provides further evidence of unity of invention.

In light of the above-identified deficiencies, it is respectfully submitted that the Examiner has not established lack of unity of invention. Thus, withdrawal of the Restriction Requirement is respectfully requested.


#### **CONCLUSION**

Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response; the Examiner is invited to contact the Applicant's undersigned representative at the number below to expedite prosecution.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,



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Date: November 4, 2003

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